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**From:** Ziegler, Sam [Ziegler.Sam@epa.gov]  
**Sent:** 2/9/2018 4:27:40 PM  
**To:** Hurl, Kathy [Hurl.Kathy@epa.gov]  
**CC:** Goldmann, Elizabeth [Goldmann.Elizabeth@epa.gov]  
**Subject:** Fwd: AZ 404 Assumption

Hi Kathy. Here's Krista's response to my email and some good info for our planning purposes. Lets look this over and discuss our plans going forward. Thanks.

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Sam Ziegler  
EPA Region 9  
415-972-3399

Sent from mobile device

Begin forwarded message:

**From:** "Krista L. Osterberg" <Osterberg.Krista@azdeq.gov>  
**Date:** February 9, 2018 at 7:34:38 AM PST  
**To:** "Ziegler, Sam" <Ziegler.Sam@epa.gov>  
**Cc:** Heidi Haggerty <Haggerty.Heidi@azdeq.gov>, "Goldmann, Elizabeth" <Goldmann.Elizabeth@epa.gov>, "Amanda E. Stone" <Stone.Amanda@azdeq.gov>  
**Subject:** RE: AZ 404 Assumption

Hi Sam,

We walked through our draft timeline on the last call; here it is below in table format. This reflects best guess timelines at our internal processes, but does not have detail on the legislative timeline—we are learning that as we go. It also is a "best case scenario" picture that doesn't account for the possibility of having to go back to revise the statutes next year before we can submit our package to EPA (which is a very real possibility if we missed something/got something wrong in the current language). We do expect the legislative approval of the statutory language to be completed by the end of April based on previous legislative sessions. As you all have seen, since the bill dropped last, we have been hit with amendment proposals that we've had to react very quickly to in order to get amended language in to our legislative sponsor. We had heard a few days ago that we had to have that language in by next Friday (a week from today); my understanding now is that we may have a bit longer but I do not know what the new deadline is. We understand that it is difficult for you guys to react quickly and on short notice, and truly appreciate the feedback that has been given (with the understanding that it does not constitute a full and comprehensive EPA review). Unfortunately, we don't get much lead or response time on these for us to pre-set review time expectations. I have cc'd our legislative liaison, Amanda Stone, on this email in case she is able to provide us with information on when our ability to make changes to the language will end. The bill could still be amended after that point, but it would be out of our control.

We won't have much control over what happens with the bill language from this point forward. I think now would be a good time for EPA to do their comprehensive review of the bill as it currently stands, with the understanding that we may need to wait for the next legislative session to make any changes that come out of this review. In the meantime, we are still working on program framework development piece (step 8 below, which I do NOT anticipate will be complete by the end of February). Elizabeth has shared some information on the wetlands program development grant (thank you Elizabeth), which we

will be looking into. We're also trying to get a better handle on the Corps' current permitting time frames, and have discussed potentially doing a process mapping event with them (I'd like R9 to be involved as well). Please know that it is not our intent or desire to hold information back from EPA; things are changing daily right now and we are trying to keep up and keep you all in the loop to the best of our ability. We appreciate you as our partner in this process. Please don't hesitate to call if you have any questions (although right now I'm heading to a permit hearing, so I'll be incommunicado most of the day I expect). We can catch up early next week if needed.

Thank you,  
Krista

No.	Action	Owner	Due Date
1	Identify regulatory gaps	Ryan Regula	5/9/2017
2	Contact EPA HQ (Kathy Hurlid)	Krista	5/31/2017
3	Hold preliminary meeting with Army Corps	Trevor	7/30/2017
4	Submit legislative proposal	Heidi	8/30/2017
5	Draft proposed statute changes and estimated program costs	Krista/Heidi	11/15/2017
6	Solicit EPA input on statute language	Krista/Heidi	12/15/2017
7	Identify legislative sponsor	Amanda	12/15/2017
8	Draft state program framework (cost, scope, resource needs, potential funding mechanisms)	Krista	2/28/2018
9	Draft and submit exemption request for rulemaking	Heidi	3/30/2018
10	Legislative session/approval of statute - allow 3 - 4 months	Amanda	4/30/2018
11	Solicit stakeholder input on program framework (assuming exception request granted)	Krista	5/30/2018
12	File NPRM	Heidi	10/15/2018
13	Public Comment Period Begins	n/a	11/16/2018
14	Public Hearing	Heidi/Krista/hearing officer	12/17/2018
15	Finalize Response to Comments & EIS (NFRM)	Heidi/Krista/Jason/Patti	1/11/2019
16	GRRC - File NFRM	Heidi	1/15/2019
17	GRRC Study Session	Heidi/Krista/Jason/Patti	2/20/2019
18	Finalize narrative description and MOAs with EPA and Corps	Heidi/Krista/Jason/Patti	2/20/2019
19	GRRC Meeting	Heidi/Krista/Jason/Patti	2/26/2019
20	File NFRM with SOS	Heidi	2/28/2019
21	AGO Certification	Ryan Regula	3/5/2019
22	Send for Governor's signature	Krista/Heidi	3/12/2019
23	Governor to submit package	Governor's office	3/26/2019

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**From:** Ziegler, Sam [<mailto:Ziegler.Sam@epa.gov>]  
**Sent:** Thursday, February 8, 2018 6:24 PM  
**To:** Krista L. Osterberg <[Osterberg.Krista@azdeq.gov](mailto:Osterberg.Krista@azdeq.gov)>  
**Cc:** Heidi Haggerty <[Haggerty.Heidi@azdeq.gov](mailto:Haggerty.Heidi@azdeq.gov)>; Goldmann, Elizabeth <[Goldmann.Elizabeth@epa.gov](mailto:Goldmann.Elizabeth@epa.gov)>  
**Subject:** AZ 404 Assumption

Hi Krista:

I appreciate the info you have shared to date and that ADEQ has established bi-weekly calls with EPA. This forms a good basis moving forward. As you know, given the short timeframes to date for our review of draft legislation, we have provided initial feedback and impressions, none of which represents a comprehensive review of the legislation. I know ADEQ is moving fast and this is a challenging endeavor that is still at the beginning stages, and short turnaround times are sometimes unavoidable. A more detailed overall schedule would help us plan accordingly for providing ADEQ timely and comprehensive assistance. I know we want to minimize the need for changes later that could have been flagged with sufficient up front time. Can you share a more detailed schedule of your development and submittal process? If not now, when? I would then suggest we discuss when you may want our assistance/comments in your process, and set some shared expectations for level of effort, review times, etc. This seems particularly important since ADEQ's timeframe for preparing an assumption package is, as you have described, "aggressive." I look forward to hearing your thoughts and suggestions.

With regards,

*Sam Ziegler*

Chief, Wetlands Section

U.S. EPA Region 9, Water Division



United States Environmental Protection Agency

75 Hawthorne Street (WTR-2-4)

San Francisco, CA 94105

(415) 972-3399

[ziegler.sam@epa.gov](mailto:ziegler.sam@epa.gov)

R9 Wetlands: <https://www3.epa.gov/region9/water/wetlands/index.html>

R9 Watershed Priorities: <http://www.epa.gov/region09/water/watershed/index.html>

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**From:** Heidi Haggerty [<mailto:Haggerty.Heidi@azdeq.gov>]

**Sent:** Wednesday, February 7, 2018 3:52 PM

**To:** Goldmann, Elizabeth <[Goldmann.Elizabeth@epa.gov](mailto:Goldmann.Elizabeth@epa.gov)>; Ziegler, Sam <[Ziegler.Sam@epa.gov](mailto:Ziegler.Sam@epa.gov)>;

Moffatt, Brett <[Moffatt.Brett@epa.gov](mailto:Moffatt.Brett@epa.gov)>

**Cc:** Trevor Baggione <[Baggiore.Trevor@azdeq.gov](mailto:Baggiore.Trevor@azdeq.gov)>; Krista L. Osterberg <[Osterberg.Krista@azdeq.gov](mailto:Osterberg.Krista@azdeq.gov)>;  
[stone.amanda@azdeq.gov](mailto:stone.amanda@azdeq.gov)

**Subject:** RE: 2018-02-07 JD lang amend

**Importance:** High

Thank you so much Elizabeth. I was just drafting another email to you, actually, based on new information.

I think if we have feedback by sometime tomorrow or early Friday, that would be helpful.

Attached is the previous document I sent you but with a second new potential option for your consideration. My guess is that the final language will likely be neither of the two proposed options, but I think you can see the general issues being considered in the grandfathering language.

Thanks again,

Heidi

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**From:** Goldmann, Elizabeth [<mailto:Goldmann.Elizabeth@epa.gov>]

**Sent:** Wednesday, February 07, 2018 4:42 PM

**To:** Heidi Haggerty <[Haggerty.Heidi@azdeq.gov](mailto:Haggerty.Heidi@azdeq.gov)>; Ziegler, Sam <[Ziegler.Sam@epa.gov](mailto:Ziegler.Sam@epa.gov)>; Moffatt, Brett <[Moffatt.Brett@epa.gov](mailto:Moffatt.Brett@epa.gov)>

**Cc:** Trevor Baggiore <[Baggiore.Trevor@azdeq.gov](mailto:Baggiore.Trevor@azdeq.gov)>

**Subject:** RE: 2018-02-07 JD lang amend

Hi Heidi,

I forwarded your email request to our Office of Regional Counsel and our Office of General Counsel (OGC) in HQ.

-Elizabeth

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**From:** Heidi Haggerty [<mailto:Haggerty.Heidi@azdeq.gov>]

**Sent:** Wednesday, February 7, 2018 2:59 PM

**To:** Goldmann, Elizabeth <[Goldmann.Elizabeth@epa.gov](mailto:Goldmann.Elizabeth@epa.gov)>; Ziegler, Sam <[Ziegler.Sam@epa.gov](mailto:Ziegler.Sam@epa.gov)>

**Cc:** Krista L. Osterberg <[Osterberg.Krista@azdeq.gov](mailto:Osterberg.Krista@azdeq.gov)>; Trevor Baggiore <[Baggiore.Trevor@azdeq.gov](mailto:Baggiore.Trevor@azdeq.gov)>

**Subject:** FW: 2018-02-07 JD lang amend

**Importance:** High

We're really just looking for any roadblocks you might see, if perhaps counsel could take a quick look and check if they see any issues. I understand this is a quick turnaround ask.

Heidi

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**From:** Heidi Haggerty

**Sent:** Wednesday, February 07, 2018 3:47 PM

**To:** 'Goldmann, Elizabeth' <[Goldmann.Elizabeth@epa.gov](mailto:Goldmann.Elizabeth@epa.gov)>; 'Ziegler, Sam' <[Ziegler.Sam@epa.gov](mailto:Ziegler.Sam@epa.gov)>

**Cc:** Krista L. Osterberg <[Osterberg.Krista@azdeq.gov](mailto:Osterberg.Krista@azdeq.gov)>

**Subject:** 2018-02-07 JD lang amend

**Importance:** High

Hi Sam and Elizabeth,

I'm wondering if someone from the EPA could review the attached language quickly, if possible, to make sure you don't see any issues with it. This is potentially an amendment to SB1493. I only drafted it within the hour but I expect that it will move very quickly (i.e. be out of my control today or early tomorrow) if it moves at all.

Heidi M. Haggerty Welborn  
Water Quality Division Legal Specialist  
Arizona Department of Environmental Quality  
[Haggerty.heidi@azdeq.gov](mailto:Haggerty.heidi@azdeq.gov)  
602-771-4815